

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

\* \* \* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 18-CR-146-JDP-1

PETER JEWELL-REIGEL,

Madison, Wisconsin

March 7, 2019

Defendant.

2:00 p.m.

\* \* \* \* \*

STENOGRAPHIC TRANSCRIPT OF SENTENCING HEARING

HELD BEFORE CHIEF JUDGE JAMES D. PETERSON

APPEARANCES:

For the Plaintiff:

Office of the United States Attorney

BY: ELIZABETH ALTMAN

Assistant United States Attorney

222 West Washington Avenue, Suite 700

Madison, Wisconsin 53703

For the Defendant:

Federal Defender Services of Wisconsin, Inc.

BY: JOSEPH A. BUGNI

Madison Branch Office

22 East Mifflin Street, Suite 1000

Madison, Wisconsin 53703

Also Present:

Peter Jewell-Reigel, Defendant

Richard Williams, U.S. Probation Officer

CHERYL A. SEEMAN, RMR, CRR

Official Court Reporter

United States District Court

120 North Henry Street, Room 410

Madison, Wisconsin 53703

1-608-261-5708

1 (Called to order 2 p.m.)

2 THE CLERK: Case No. 18-CR-146-JDP-1, *United*  
3 *States of America v. Peter Jewell-Reigel*. Court is called  
4 for sentencing. May we have the appearances, please?

5 MS. ALTMAN: Good afternoon, Your Honor. United  
6 States appears by Elizabeth Altman.

7 THE COURT: Good afternoon.

8 MR. BUGNI: Good afternoon, Your Honor. Joe  
9 Bugni appearing on.

10 Behalf of Peter Jewell-Reigel.

11 THE COURT: Mr. Jewell-Reigel, Mr. Bugni, good  
12 afternoon to you. Rich Williams is the probation officer  
13 who prepared the presentence report and he's in the  
14 courtroom with us here today. Let me review the materials  
15 that I have reviewed in connection with the sentencing to  
16 make sure I didn't miss anything.

17 I've got the presentence report, statement from the  
18 government that there were no objections to the  
19 presentence report. I have some clarifications from the  
20 defendant, no objections that affected the guideline,  
21 anyway. Then I've got an addendum and a revised  
22 presentence report, a sentencing memorandum from both  
23 sides. And then the defendant's sentencing memorandum  
24 kind of came in installments. I have three submissions,  
25 so three of those from you. So that's what I have.

1 Did I miss anything from your side, Ms. Altman?

2 MS. ALTMAN: Not from my side, Your Honor.

3 THE COURT: Mr. Bugni?

4 MR. BUGNI: No, Your Honor.

5 THE COURT: I think I have everything. All  
6 right. So do we have anybody that we're going to hear  
7 from besides you, Ms. Altman?

8 MS. ALTMAN: No.

9 THE COURT: Witnesses have been notified, but  
10 they're not here?

11 MS. ALTMAN: Correct.

12 THE COURT: All right. And, Mr. Bugni, I'll hear  
13 from you and Mr. Jewell-Reigel, I suppose?

14 MR. BUGNI: That's correct, Your Honor.

15 THE COURT: Nobody else?

16 MR. BUGNI: No, Your Honor.

17 THE COURT: All right. So, Mr. Jewell-Reigel, I  
18 need to make sure that you've read the presentence report  
19 and the revised presentence report and the addendum and  
20 that you discussed all those documents with your lawyer.  
21 Have you done that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You can pull the microphone over a  
24 little closer to you so you don't have to lean into it, so  
25 just keep it close to you. That's good. So you've read

1 it --

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: -- and talked about it with your  
4 lawyer. Do you have any other concerns with the  
5 presentence report?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: All your concerns have been conveyed  
8 to me?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And, Mr. Bugni, have the  
11 clarifications that you offered been adequately reflected  
12 in the revised presentence report?

13 MR. BUGNI: They have, Your Honor.

14 THE COURT: Okay. I'll adopt the facts in the  
15 presentence report as the facts on which I'll base my  
16 sentence and I will accept the plea agreement. I think  
17 that the offense of conviction adequately reflects the  
18 defendant's criminal conduct. The plea agreement does not  
19 undermine the statutory purposes of sentencing. And I  
20 will take into consideration both the advisory sentencing  
21 guidelines and the statutory purposes of sentencing that  
22 are set out in Title 18 of the United States Code at  
23 Section 3553(a).

24 Let me just make a record of where we've landed with  
25 the guidelines. Nobody has objected to them, but let's

1 make that clear. I find that they're correctly calculated  
2 in the guidelines.

3 So I've got a stipulation that although the defendant  
4 pleaded guilty to the receipt-of-pornography charge, he  
5 stipulated that his conduct involved the production of  
6 child pornography, which is a violation of Title 18,  
7 United States Code, Section 2251, so the guidelines are  
8 calculated as though that were the offense. So the base  
9 offense level is 32 for that offense.

10 The Known Victim No. 1 was 12 years old when the  
11 defendant exchanged pictures with her, so that is also a  
12 two-level increase. We've got the two-level increase and  
13 that two-level increase for the age of the victim is in  
14 guideline section 2G2.1(b)(1)(B). Then we've got the use  
15 of an interactive computer service which produces a  
16 two-level increase as a result of guideline section  
17 2G2.1(b)(6)(B)(i). There aren't any other Chapter Two  
18 adjustments.

19 We've got what I believe will be three levels of  
20 downward adjustment for acceptance of responsibility  
21 because we've got the defendant accepting responsibility  
22 by entering a timely plea. And I think the government is  
23 prepared to move for the third level, but let's confirm  
24 that.

25 MS. ALTMAN: Yes, Your Honor.

1           THE COURT: That gives us three levels of  
2 downward adjustment. Criminal history category is III, so  
3 that gives the defendant an advisory guideline  
4 imprisonment range of 168 to 210 months.

5           I'll stick to my usual practice here and that is that  
6 I will depart downward by two levels because the use of  
7 the interactive computer service is more or less a common  
8 feature of virtually all pornography offenses these days  
9 and so I think it exaggerates the culpability when the use  
10 of the computer is so routine now and I will depart  
11 downward two levels in light of that.

12           So that would give us an offense level of 31, which  
13 would give us a guideline imprisonment range of 135 months  
14 to 168 months. So that's kind of what I will regard as a  
15 starting point for our discussions based on the  
16 guidelines. That's what the guidelines tell us to do,  
17 what they suggest we consider.

18           And I've got sentencing memos from both sides, so we  
19 don't need to rehash everything, but we've got the  
20 opportunity to provide me some further guidance as I  
21 decide what sentence I should impose.

22           So, Ms. Altman.

23           MS. ALTMAN: Thank you, Your Honor. I will not  
24 rehash anything in my sentencing memorandum. But I do  
25 want to indicate that to the extent there is incorrect

1 information in there, that certainly was not intentional.

2 THE COURT: Well, I wouldn't think so, but let's  
3 be clear about where the incorrect information is. And I  
4 gather the main focus from one of Mr. Bugni's submissions  
5 is that the incident with the young lady in the closet,  
6 that that person was really 15 years old and I think that  
7 Mr. Jewell-Reigel was the same age?

8 MR. BUGNI: 15. Yes, sir.

9 THE COURT: They're both 15 at the time.

10 MS. ALTMAN: Correct. I was using the  
11 information in paragraph 64 which indicated he was 16 and  
12 then charged with repeated sexual assault of a child under  
13 13. That's the information I was using.

14 THE COURT: So it is understandable confusion.  
15 But I gather, now that we've got the fuller information,  
16 they were both 15?

17 MS. ALTMAN: Correct.

18 THE COURT: Okay.

19 MS. ALTMAN: I don't dispute that.

20 THE COURT: Yeah. And then the other aspects of  
21 it, the two salient features of that paragraph 64, which  
22 describes some very horrifying conduct, is that they were  
23 both 15 and then also the charges were dismissed.

24 So Mr. Bugni makes reference to the discovery file in  
25 that case, which I haven't seen, Mr. Williams hasn't seen.

1 But the bottom line seems to be a pretty plausible  
2 conclusion that that isn't really what had happened or  
3 they wouldn't have so readily dropped those charges.

4 MS. ALTMAN: I don't know the answer to that,  
5 Your Honor, and I don't know -- I think an equally -- I  
6 don't know. You could also say that although they were  
7 both 15 and that the court decided that hitting someone  
8 with a sex offense at 15 or the DA's office decided that  
9 charging someone with a sex offense at 16 wasn't  
10 necessary. I don't know. I didn't see the discovery  
11 file. I guess I would hate to speculate on what the  
12 reasons were. I don't have any reason to dispute  
13 Mr. Bugni's characterization of it. That's the best I can  
14 answer to that.

15 THE COURT: All right.

16 MS. ALTMAN: Whatever it was, I don't know that  
17 it -- well, it doesn't change my recommendation --

18 THE COURT: Mm-mm.

19 MS. ALTMAN: -- because he did still spend the  
20 three days in jail for whatever the sexual conduct was.  
21 And I think my basic point, other than the age, which of  
22 course I was wrong, was that that was not part -- it  
23 didn't deter him and it didn't keep him from then going on  
24 to more egregious -- although still, I don't even want to  
25 say, age appropriate -- more egregious behavior. I mean,



1 his next offense, he was charged with second degree sexual  
2 assault of a child. That is more egregious conduct.

3 What I want to add in addition to my sentencing  
4 memorandum is just a couple things. In going through the  
5 chats -- and I think, as Mr. Bugni indicated in his, there  
6 was pages, and pages, and pages of chats -- but we noticed  
7 that there was at least two 16-year-olds that he was  
8 having contact with. So it was not just a gaming forum  
9 for him; he was also communicating with the two  
10 16-year-olds. We could determine that because he would  
11 ask, people he was talking to, he would ask their age. So  
12 some of them we don't know how old they were, but we knew  
13 there were at least two 16-year-olds.

14 One of the 16-year-old girls says in the chats that  
15 she sent him pictures and gives him a phone number.  
16 There's a message from one girl where they talk about  
17 chatting on Kik and she says that he creeped her out. One  
18 of the girls says she emailed him videos and pictures. He  
19 asked for a, quote, "tit pic," unquote, and she says  
20 "They're in the video." He then asks her to write  
21 something on her breasts and to show to -- quote, "show it  
22 daddy," unquote.

23 So the behavior with the victim in this case, while  
24 she was significantly younger than these two 16-year-olds,  
25 certainly was not the only time that it happened while he

1 was doing this gaming activity.

2 THE COURT: Okay. Because there's the kind of, I  
3 don't want to say, lead reference, but there's a very  
4 summary reference in the paragraph 34 or thereabouts --  
5 36: "This review also located nude pictures of other young  
6 women. Investigators weren't able to determine the ages  
7 of the females in the other images." And so --

8 MS. ALTMAN: It may or may not have been those  
9 girls.

10 THE COURT: Okay.

11 MS. ALTMAN: I can't say that it was.

12 THE COURT: Okay. But the texts demonstrate that  
13 he was engaging in sexually oriented communication with at  
14 least two 16-year-old girls?

15 MS. ALTMAN: Yes.

16 THE COURT: Okay. All right.

17 MS. ALTMAN: And then just I guess to conclude:  
18 This is a tough case. This was a tough case charging.  
19 We -- without going into prosecutorial discretion, those  
20 sort of things -- we struggled with how to charge it,  
21 whether we charge it production, whether we charge it  
22 receipt. Of course a production would have had a 15-year  
23 mandatory minimum. No matter what happens, I think we  
24 charged it correctly.

25 THE COURT: I will -- it's not my job to decide

1 whether it was charged correctly, of course. But I do  
2 appreciate and I recognize that you could have charged  
3 this far more aggressively, in which my hands would have  
4 been tied and I would have had to impose a 15-year  
5 mandatory minimum and so I appreciate that. That has not  
6 gone unnoticed by me. I do appreciate that.

7       So you're not -- given the severity of the crime  
8 here, and I think it is very serious, this isn't some  
9 crazy draconian request that you're making. I'm not  
10 saying I'm persuaded or that I'm going to do it exactly,  
11 but this is not an off-the-wall request. I think this is  
12 a very serious concern, so I appreciate that. Is there  
13 anything else?

14               MS. ALTMAN: Just the end.

15               THE COURT: Okay.

16               MS. ALTMAN: The defense asks for five years.  
17 Five years is the mandatory minimum. Mandatory minimum is  
18 for someone with no criminal history, for someone with no  
19 aggravating factors, for someone maybe with mitigating  
20 factors, and this is not that case.

21               In this case we have someone who has a history of  
22 illegal, inappropriate conduct, some of it more peer  
23 related, some of it -- it's all peer related, but some of  
24 the girls were just too young. They just, quite frankly,  
25 were too young.

1           He has a criminal history. He has more than one  
2 victim, as demonstrated by the other chats or at least  
3 attempting to perhaps leading in that way. This isn't a  
4 case for a mandatory minimum and that's my bottom line.

5           THE COURT: Well, let me voice some of my  
6 concerns here as I try to deal with what is a difficult  
7 case. The one obvious factor is that we've got a very  
8 young offender here. This is -- you know, he's a  
9 20-year-old young man that is facing a long prison  
10 sentence even at the mandatory minimum. And so we're not  
11 talking about a 40-year-old guy here; we're talking about  
12 such a young offender, somebody who's never really been in  
13 prison. And so that's, you know, that's a strong factor  
14 that militates against a long sentence.

15           MS. ALTMAN: I don't disagree with that at all,  
16 Your Honor. But on the other hand, I would say if you  
17 have a 40-year-old in here without a criminal history,  
18 he's gone a whole lot longer without getting in trouble.  
19 This man, at 20 --

20           THE COURT: Yeah --

21           MS. ALTMAN: -- has gotten in trouble numerous  
22 times just by age 20.

23           THE COURT: -- which brings me to the second  
24 concern that I have and that is that I want to be really  
25 fair and kind of dispassionate about assessing his

1 criminal history. And so that's why I think the  
2 clarification about the factual information in paragraph  
3 64, which isn't part of the conviction, it's important to  
4 get a sense of that. That, of course, as I said, if that  
5 were a conviction for a kidnapping and raping a  
6 15-year-old, even if he was only 15 years old, that would  
7 be a horse of a completely different color and so that  
8 is -- that concerns me.

9 I guess the bottom line here is I'm worried about  
10 whether his criminal history is being amplified as a  
11 series of sex offenses for a lot of conduct that is  
12 admittedly illegal for an 18-year-old to have sexual  
13 contact with a 15-year-old. But in the context of high  
14 school, I think it probably happens much more often than  
15 we are ready to acknowledge and that he's no saint here  
16 because he's definitely noncompliant and dishonest. And  
17 so that aspect of his conduct during his high school age,  
18 I recognize that and that concerns me.

19 But at the same time I think he's -- I'm not sure  
20 it's really quite fair to describe him as a serial sex  
21 offender. It certainly isn't the prototypical set of  
22 circumstances that we would expect from that.

23 So that's -- my concern here is that I not amplify  
24 his sentence on the basis of sexual conduct which frankly  
25 I think was probably charged and prosecuted in ways that

1 were more aggressive than the U.S. Attorney has done here.

2 MS. ALTMAN: The only thing I can say in response  
3 to that, Your Honor, is I think it is pretty prolific in  
4 schools, as much as we want to say or not.

5 THE COURT: Yeah.

6 MS. ALTMAN: And the district attorney's office  
7 in Marathon County must have had some reason to pursue  
8 these charges. I don't know what they are.

9 THE COURT: Sometimes it's because the parents of  
10 the girl are influential and angry.

11 MS. ALTMAN: Sometimes.

12 THE COURT: And, you know, then the young man  
13 ends up getting tagged with something that the next time  
14 he does something that's sort of typically stupid,  
15 adolescent behavior then becomes worse and it spirals out  
16 of control and I'm a little bit afraid that that's what's  
17 happened to Mr. Jewell-Reigel here.

18 MS. ALTMAN: The only response I would have to  
19 that, Your Honor, is that -- well, a couple things. I do  
20 primarily these types of cases. I don't see men this  
21 young that often, but this is one of the -- maybe the only  
22 man I've seen with this sort of history this young. So is  
23 it happening more often? Maybe.

24 The other response I would say to that is it's three  
25 different girls. And so the idea that three different

1 sets of parents would have enough influence or clout or --  
2 we see all the time parents don't care, quite frankly,  
3 sadly, and we send out victim letters and we don't get  
4 anything back.

5 I think we have to trust that Marathon County did the  
6 right thing, just as we would like to think we would do  
7 the right thing. And rather than looking for reasons why  
8 perhaps it wasn't right, I think we have to -- we should a  
9 assume that it was.

10 THE COURT: Mm-mm. Okay. And then what about  
11 what is the status of KV No. 1? I didn't really hear  
12 anything from her. Has she submitted any --

13 MS. ALTMAN: She hasn't. We've communicated and  
14 sent notices to her family and we have not --

15 THE COURT: Haven't heard anything back?

16 MS. ALTMAN: No.

17 THE COURT: So there's no request for restitution  
18 or anything like that. So restitution is not an issue and  
19 I don't really have any input from her.

20 MS. ALTMAN: No.

21 THE COURT: All right. Mr. Bugni, I read your  
22 memo. She voiced all the concerns that I have. And I  
23 want to be fair about Mr. Jewell-Reigel's criminal  
24 history, but, you know, I'm not ready to just dismiss it  
25 all as overzealous prosecution. And best-case scenario,

1 Mr. Jewell-Reigel has shown himself to be, at least during  
2 his high school years, kind of willing to lie, dishonest,  
3 and he's really insistently noncompliant. And so I think  
4 you would acknowledge that. Is that a fair amplifier of  
5 his -- it's a fact of his criminal history that I think I  
6 have to consider.

7 MR. BUGNI: I agree. I disagree with Ms. Altman  
8 that five years is where you start. I mean, I think you  
9 start actually much lower, but you're like "Well, I'm  
10 hemmed in by five years." It's not that five years  
11 somehow becomes like the bottom.

12 THE COURT: Yeah.

13 MR. BUGNI: It's just that you say "Well, if I  
14 didn't have a mandatory minimum, I might say your first  
15 time in prison, two or three years, that would be  
16 appropriate, but now I have to move it to five."

17 As far as amplification goes, I agree there's three  
18 different girls, so it doesn't become the overzealous  
19 parents. But when you really parse it, which I really  
20 tried to embrace the bad facts in this case, Girl No. 1,  
21 it's the story to get out of there. They had text  
22 messages from her. They had, you know, interviews from  
23 other people. His parents were there at the house.

24 THE COURT: Girl No. 1?

25 MR. BUGNI: I'm sorry. The 14-year-old -- the



1 15-year-old, the 15-year-old alleged kidnapping victim.

2 THE COURT: Yes. Okay.

3 MR. BUGNI: So you take the first one, that's why  
4 no charges are brought. He spends three days in jail.  
5 The truth comes out and it's belied by the facts. Then  
6 you go to the second girl, that I disagree.

7 THE COURT: The second girl is?

8 MR. BUGNI: The battery.

9 THE COURT: EKH?

10 MR. BUGNI: EKH.

11 THE COURT: Yeah.

12 MR. BUGNI: I disagree with Ms. Altman. That is  
13 poor prosecutorial discretion if the complaint is "We were  
14 wrestling, he poked me in the belly, he walked on my back  
15 and he shoved me between his brother and I," and then his  
16 parents are there to witness it and say "She asked him to  
17 give her a massage and walk on his back." He's not that  
18 big of guy. If some girl asked me to do that, that would  
19 be crazy. But there's nothing there that says this is  
20 criminal.

21 Now, they're naive, and that's no offense to them,  
22 but they take the advice of their lawyer. They pay  
23 \$5,000. The lawyer says, "If you take a plea deal, it  
24 will be fine." Well, that becomes an unraveling right  
25 there. You know, that's where he's on probation and when

1 he gets revoked for that probation. And why does he get  
2 revoked? For consensual sexual activity with a sophomore  
3 when he's a senior at prom. That has to tell you this is  
4 amplified. You know, that's something I don't know what  
5 it was like in Fort Atkinson, but at Riverside High School  
6 that was quite a common phenomenon. And the idea that  
7 he's been selectively prosecuted for that, that does ring  
8 true.

9 I've only seen one other person for the  
10 senior-sophomore sex offender. That was Joshua  
11 Van Haften. Josh Van Haften was the only other time I've  
12 seen, in all the hundreds of people I've defended, with  
13 second degree sexual assault because they were a senior in  
14 high school and so was the sophomore. That's all that  
15 they needed was that.

16 Now, is he noncompliant? Clearly. But is he  
17 noncompliant in a way that we normally think of  
18 noncompliance? He's not smoking weed. He's not drinking.  
19 He's not going out, you know, breaking down mailboxes.  
20 He's not getting in fights. He's lonely and he likes  
21 girls.

22 Now, I agree he should have stayed away from all  
23 girls. And believe me, talking to his parents, they tried  
24 to intercede. They're like, "You just need to take a  
25 break, man. You just need to be away from everyone." But

1 he's online and in some ways that's sort of like the  
2 no-harm zone. We know it's a harm zone. He now has it  
3 drilled into him that's a harm zone. But he's not having  
4 this daily contact with minors.

5 So you're right, he's noncompliant in the fact that  
6 he was online, he's talking to girls and he asks for  
7 pictures. But he's not noncompliant in that he's refusing  
8 to work. He's working. He's going to school. He's doing  
9 all those other things.

10 So this really is a case where the criminal history  
11 is aggravating and really it's a piling on. I mean, you  
12 see the snowball effect of you're right, we're talking  
13 about a 20-year-old, a 20-year-old that is facing this  
14 much time based upon these series of events.

15 I think it's more than adequately punished with five  
16 years. I think we can all rest and say that's a lot of  
17 time. That's lot of time for a young man. That's a lot  
18 of time for this crime. It's a lot of time that we know  
19 is going to change him.

20 You know, the other reason that I disagree with  
21 Ms. Altman is at 40, your behavior is kind of set. If  
22 you're 40 and you're going after a 12-year-old, that's  
23 weird. And that's just -- you know, you can't do that.

24 But you're in *World of Wizard* or *Wizard 101* and  
25 you're talking to a girl and you're lying about how old

1 you are and you don't have the good sense to not do it.  
2 There's something less that says at 25 you're going to  
3 grow out of this or you should grow out of it. And if you  
4 don't, you're going to be on supervision for the rest --  
5 you know, for the next ten years after that.

6 So there's a lot that goes into this sentence that  
7 you can rest assured that allowing him to be released at  
8 25 should more than adequately protect the public, drive  
9 the message home for him, but also provide just  
10 punishment.

11 You know, this isn't somebody who had a collection of  
12 child pornography. He is part of this generation that for  
13 some reason or another people send naked pictures of  
14 themselves to one another.

15 THE COURT: Well, we've had -- I mean, we have  
16 over 200 nude images of the victim.

17 MR. BUGNI: They have 140 I believe of the  
18 victim, but he had 200 images of other, you know, girls  
19 that -- throughout the time. And, Judge, if I can just  
20 put it into perspective. When he's 15, the 15-year-old is  
21 sending him naked photos, you know, and he's sending the  
22 15-year-old naked photos. So it's weird. Really, man.

23 THE COURT: I'm with you. I'm pretty distant  
24 from the phenomenon in real life, but I see a lot of it  
25 here on the bench. You know, I see people who are charged

1 with child pornography offenses. So I just -- I have a  
2 hard time understanding what the ordinary norms of social  
3 media and person-to-person electronic communication in a  
4 high school or among young adults would be.

5 MR. BUGNI: I agree. I think you've got to say  
6 like we're seeing it enough and we see it from anybody  
7 from Brett Favre when he's starting for the Jets --

8 THE COURT: Don't remind me.

9 MR. BUGNI: Yeah. -- to Peter Jewell-Reigel.  
10 Like this has sort of like -- this has become the norm.  
11 It's not cool. It's something that I think society, in a  
12 hundred years, will say like "What were you doing?" The  
13 bell bottoms of the 2010s.

14 THE COURT: I don't think I'm quite ready to say  
15 it's the norm, but --

16 MR. BUGNI: But it's happening more than it  
17 really should. That's what -- here's the main point:  
18 It's not indicative of somebody who's nefarious. It's not  
19 indicative of something that's like you are now a twisted  
20 individual. You know, if there's videos of him killing  
21 cats, I'd be like "Dude, no. That's just strange."

22 THE COURT: Well, let's explore that a little bit  
23 then because I have to say, among the most disturbing --  
24 in fact the single-most disturbing thing here is that, you  
25 know, a lot of times I have the victim has presented

1 herself or himself as older than they really were, so  
2 there's an argument that the defendant didn't know that  
3 they were 14 or whatever.

4 MR. BUGNI: Yeah.

5 THE COURT: That's not the case here. So we know  
6 we've got somebody who has acknowledged to be 12. Nobody  
7 is trying to argue that she looked older or anything like  
8 that. There was no mistaking she was a 12-year-old and it  
9 is the lewdest kind of photographs and the nastiest kind  
10 of chat. Now, she was a participant in it in that she  
11 also participated in conversation that just seems  
12 completely crazy rough for a 12-year-old girl.

13 MR. BUGNI: Yes.

14 THE COURT: Frankly, it seems kind of far out for  
15 somebody who's 20. But it's like the crudest, roughest  
16 kind of chat. It seems it would be so damaging to this  
17 12-year-old girl, even if he didn't meet her, just to have  
18 her early sexual experiences be of this nature. It's  
19 harmful to the victim and it's way out there.

20 MR. BUGNI: It totally is. Man, I've got a  
21 12-year-old at home. I totally agree with that. And I  
22 don't mean this sounds callous, but part of it is Lucy  
23 Bugni is not capable of having that initial conversation  
24 or at least I hope not. But we see this.

25 We've had this in a few cases before where the

1 conversations, it's not that they're out of space and  
2 they're talking about the Disney Channel and *Liv and*  
3 *Maddie*. Instead, she knows what's going on. That's the  
4 only way you can have this conversation back and forth and  
5 that's the only way within -- I believe it's an hour and  
6 43 minutes of initially talking that they're exchanging  
7 photographs. So I agree it's damaging, but I don't  
8 believe that he's stripped her innocence.

9       And I think like when we talk about that, it's those  
10 who are grooming people. I know we had that young man who  
11 posed as like a 12-year-old. And he's like "Hey, send me  
12 the photos." Those are the guys who like "Yeah, you've  
13 done some real harm here."

14       And it's not to say that because she's a little bit  
15 damaged or because she was more experienced than we would  
16 like a 20-year-old to be, let alone a 12-year-old, that  
17 she's any less a victim, but it says the harm that's being  
18 done by Mr. Jewell-Reigel is a little bit less. And I  
19 don't think that because of that the harm to her has  
20 become so much greater. I think it's just a sad fact that  
21 12-year-olds now talk like this.

22       Ms. Altman and I had one case with an 11-year-old  
23 that it shocked the conscience what this girl texted where  
24 I was like "This can't actually happen," but yet it's  
25 happening more and more. It's not again that

1 Jewell-Reigel is on an appropriate website targeting  
2 12-year-olds girls and trying to pose as it; it's that  
3 he's on an age appropriate website that also draws people  
4 that are under age and he didn't have the good sense to  
5 follow the law and abandon as soon as she said that she  
6 was not 18.

7       So I think there is a huge world of difference when  
8 you're calculating your appropriate punishment and  
9 redressing this crime. You have to say again this is not  
10 somebody who's trying to pretend that he's something that  
11 he's not to seduce somebody who otherwise that would not  
12 be. In that way the harm is much different.

13       THE COURT: All right. Anything else?

14       MR. BUGNI: Judge, let me just see in my notes.  
15 I do want to say this, that there is a lot that happens  
16 with the maturity between 20 and 25. When I look back at  
17 like that sophomore going into law school, that age gap  
18 and the maturity that we can hope for from  
19 Mr. Jewell-Reigel is not just seen in like "Here you go,  
20 now he's caught and now he's going to make hopefully an  
21 impassionate speech to you"; it's that he's not building  
22 upon a totally flawed foundation.

23       That behavior, those criminal convictions, I think  
24 they overstate both the actions that took place, but they  
25 don't represent the kind of person he is. You can see his



1 folks are here. You can see his aunt. You can see his  
2 grades. You can see like his involvement with the  
3 trumpet, the ability to play music by ear.

4 This is somebody who I hope that a five-year sentence  
5 will have that corrective action and it should allow this  
6 court to take some comfort that this guy is not going to  
7 become Josh Van Haften; God help us. But this guy is  
8 somebody who, hopefully in 15 years, people will say "Get  
9 out of here. You went to this prison, federal prison?  
10 That's amazing. Tell me your story," and he gives much of  
11 that indicia. There's more to him than I believe what  
12 those criminal conversations bear out and what they should  
13 lead you to sentence him as.

14 THE COURT: All right. Mr. Jewell-Reigel, you  
15 don't have to say anything, but you've got the right to  
16 address me before I decide on your sentence and I'd like  
17 to hear from you. So do you have anything to tell me?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Let's talk.

20 THE DEFENDANT: Well, I'd like to apologize,  
21 start out by apologizing for my actions. They were  
22 totally unacceptable and nothing I can say or do will be  
23 capable for rendering them justified.

24 I'd like to apologize also to the family that I  
25 wronged. I'd like to apologize to my family and to my

1 friends for letting them down again. And I'd like to  
2 apologize also to the justice system for wasting ample  
3 opportunities presented to me to turn my life around.

4 I admit I messed up in the worst possible way and I'm  
5 tired of letting my mistakes get the best of me. I am  
6 fully prepared to accept full responsibility of my actions  
7 and a clear consequence is prison time.

8 And on that subject, I'd like to note that I was able  
9 to watch a movie titled *Shawshank Redemption*.  
10 Unfortunately, I was unable to finish it. But from what I  
11 could gather, I really admired the main actor or Andy  
12 DuFresne. I admired his demeanor, the way he kept his  
13 head up, stayed strong and the way he kept himself and  
14 just never really let things bother him too much. And  
15 seeing this has helped me to relax a little bit because  
16 it's been really hard. And it also reminded me that if I  
17 do the same -- keep my head up and just stay strong --  
18 that I can make an awesome comeback in my own way.

19 And also I'd like to mention a novel that I haven't  
20 finished but, it was titled *Les Mis*. I never pronounce  
21 the full name, so please forgive me. But the reason I  
22 bring this up is because I was able to relate to the  
23 character Jean Valjean when he was in his moment of  
24 weakness. He stole money from a child and he felt bad for  
25 it afterwards.

1           Now, it is said in the book that the man and the  
2       beast are one in the same; however, the beast will commit  
3       the atrocities and the man will feel bad afterwards. So  
4       what I'm trying to say is that I would like to rid myself  
5       of the beast and to become the best man yet possible.

6           And I'm honestly excited to receive the help I need  
7       to turn a new leaf. In the future I would like -- I would  
8       love to show that I still have a lot of fight left in me  
9       and I would love also to repay all the kindness and  
10      support that has been shown to me.

11          Thank you. That's all.

12                THE COURT: All right. What do you see for your  
13      future; what do you want to accomplish?

14                THE DEFENDANT: Well, as you're aware, I was  
15      going to school. I know it's going to be tough when I get  
16      out, but I would still -- I'm -- just because of the way I  
17      was brought up and raised, I just really feel I need to --  
18      I would love to get a career. But even if I can't, I'd  
19      still -- I'm not going to give up. I would like to get a  
20      job trade or some sort of way to support myself and also  
21      to support my parents when they need me. And I just  
22      don't -- what I'm trying to say is I really don't want to  
23      give up. I want to -- I don't know exactly what I'm going  
24      to do, but I'm not going to just give up.

25                THE COURT: All right. So what led you to the

1    *Les Mis* book, because Mr. Bugni quotes that a lot. I'm  
2    wondering if he fed that to you.

3           THE DEFENDANT: Yeah, it was actually him.

4           THE COURT: He gave it to you, didn't he?

5           THE DEFENDANT: He did.

6           THE COURT: All right.

7           THE DEFENDANT: However, I --

8           THE COURT: He has to expand his reading list.

9           MR. BUGNI: I just want to be clear. I didn't  
10   feed him that line; I made him read the book.

11          THE DEFENDANT: I actually --

12          THE COURT: We're going to get you some new  
13   books.

14          THE DEFENDANT: That would be awesome, because I  
15   do -- back in history class we had to read books. And  
16   back then I'd wait for the bell to ring, go out and have  
17   fun. But now, being 20 and remembering my years in high  
18   school, I actually find that I really enjoy speaking and I  
19   enjoy learning things.

20          And reading *Les Mis* was actually awesome because I  
21   was able to feel that the skills I've learned in high  
22   school and actually be able to read even those Old  
23   English. It was really awesome to be able to still follow  
24   along. I also love *Phantom of the Opera* and I love these  
25   classics.

1           THE COURT: Okay. It's awkward to talk about  
2 these things because they're not the usual things that we  
3 talk about in public, but I got to ask about your sexual  
4 interests. So like why a 12-year-old girl?

5           THE DEFENDANT: Honestly, when we were talking,  
6 it was really -- it clouded my judgment, but also just  
7 being young and I guess I was more just sexually active,  
8 more than I would like to be.

9           THE COURT: It's a normal interest. But what I'm  
10 trying to get at is are you just interested in 15-year-old  
11 girls and 12-year-old girls; are you interested in people  
12 your own age?

13          THE DEFENDANT: Yes. Actually, I'm more  
14 interested in people my own age. It's just sometimes I  
15 come across people who are younger, but also sexually  
16 active. But after I had gotten out from my four-month  
17 jail experience, I had gotten out, I was actually with  
18 people, like a relationship. I was actually with people  
19 my own age.

20          THE COURT: I mean, because in the high school  
21 context, you know, you were 18 as a senior.

22          THE DEFENDANT: Yes.

23          THE COURT: You ended up interested in a  
24 sophomore girl. Why not somebody in your own class or  
25 somebody who is 18?

1           THE DEFENDANT: It was -- it honestly just sort  
2 of happened that way. She was the manager of the  
3 wrestling team and I was on the wrestling team and it's  
4 just we talked more than I really talked with anyone that  
5 was in my grade at the time. That's just really all that  
6 there was to it. We just ended up talking more, were more  
7 friendly with each other.

8           Don't get me wrong, I did talk to people in my own  
9 grade. There was just not really any connections. But  
10 had there been, I absolutely would have gone for somebody  
11 that was with me.

12           THE COURT: And so what kind of understanding  
13 have you gained about your interactions with the  
14 12-year-old girl that you met through the wizards game?

15           THE DEFENDANT: I understand that I need to  
16 strengthen my judgment and my just being more wise. I  
17 need to -- I understand I need to step back sometimes and  
18 ask myself what am I doing, why am I doing this, what  
19 kinds of consequence will this have. Before I did not  
20 think as much as for consequences.

21           THE COURT: The other aspect of your conduct that  
22 concerns me is your willingness to lie to cover things up.  
23 So when you had the young lady who was hiding in the  
24 closet, the police came looking for her, the parents must  
25 have been out of their minds worried about her and you

1 knew where she was and you lied about the fact that you  
2 had her.

3 THE DEFENDANT: Yes. That I would say I was  
4 definitely not thinking actually about anyone other than  
5 her and myself at the time. And looking back I definitely  
6 see that I had affected a lot more lives than what I was  
7 thinking at the time.

8 THE COURT: All right. Anything else you want to  
9 tell me?

10 THE DEFENDANT: No matter what sentence I end up  
11 getting, I will understand that you, from what I can see  
12 just listening to you talk between prosecutor and my  
13 defender, that you have good judgment. And I just want to  
14 say that no matter what you decide that I will make  
15 effective use of the time that you have -- you give to me  
16 to turn my life around so that we don't have this  
17 conversation ever again.

18 THE COURT: All right. Okay. Thank you. I'm  
19 going to take a brief recess and we'll come back and  
20 finish up the sentence.

21 (Recess at 2:49 p.m. until 2:55 p.m.)

22 THE COURT: All right. Let me begin by thanking  
23 counsel for their presentation. And again I want to  
24 express my appreciation for the way the case is  
25 prosecuted. I think it could have been much more

1 draconian. It's a difficult case for all sorts of  
2 reasons. So let me just give you my reasons for how I  
3 have settled on the sentence I'm settling on.

4 I want to say first that I am, Mr. Jewell-Reigel, I  
5 am really horrified by your conduct with that 12-year-old  
6 girl. I do have the impression or believe that, as  
7 Mr. Bugni says, that this wasn't her first sexual  
8 experience, so I think that it's unfortunate that she  
9 found herself where she was. But instead of staying away  
10 from her, you kind of took advantage of the fact that she  
11 was in that kind of place where, for whatever reason at  
12 the age of 12, she had embraced some really -- *adult*  
13 doesn't even capture it -- attitudes about sex and  
14 sexuality and you kind of took advantage of her. She  
15 probably had already been victimized by someone to have  
16 that kind of ideas about sex and you took advantage of  
17 that. So I think this is really a very serious crime.

18 And I have to say and I want you to come to a  
19 realization that the way your conversation went with that  
20 young lady is not what healthy sexual relationships look  
21 like. That's just not how you should treat anybody in a  
22 sexual relationship, let alone a 12-year-old girl, and so  
23 I take this seriously.

24 And of course then you've got the images, which  
25 there's nothing here to suggest that these images



1 circulated widely, but I think it's just a very dangerous  
2 and destructive thing to have young people circulating  
3 images of their genitals and sexual activity to people  
4 they meet on the internet. It's very unhealthy. It's not  
5 something that you should do and it's not something that  
6 you should participate in. It's very damaging to the  
7 participants.

8 But I really don't think that you're an irredeemable  
9 person. I just can't -- I have to consider not only the  
10 crime, but the offender. I have to make an assessment of  
11 you and your character. And you're presented in the  
12 presentence report as somebody with a history of sex  
13 offenses, but I feel an obligation to really look behind  
14 the fact of these convictions and the fact that you  
15 violated your parole or your supervision and really try to  
16 figure out really what's going on there.

17 And I have to say that I think your criminal history  
18 really is -- and again I have my concerns about your  
19 dishonesty with the police when you had the runaway in the  
20 closet, but I think most of it I would understand as kind  
21 of bad judgment that's within the ordinary range of bad  
22 judgment that a teenager displays. Maybe you were more  
23 sexually active than some.

24 But I think that when I look at it, the problems that  
25 I see are really your dishonesty in dealing with the girl

1 who ran away. I think that prosecution with the victim  
2 EWK [verbatim] or the battery charge, I have to say I  
3 shared Mr. Bugni's view of that. I have a hard time  
4 understanding how that gets prosecuted. That puts you on  
5 supervision so that when you engage in the ill-advised  
6 senior-sophomore romance that that then gets amplified  
7 into a violation of your supervision and it gets you into  
8 court again, whereas -- and again I'm not really endorsing  
9 the idea of an 18-year-old senior dating a 15-year-old and  
10 then having sex with her. But it's still, as I said, it's  
11 within the range that doesn't, to my way of thinking,  
12 really make you into a dangerous sex offender.

13 So when I look at that and I see your potential --  
14 obviously you've got a lot of family support, you've got  
15 talents, an education that you were working on -- I really  
16 don't see you as an irredeemable person; I see you as a  
17 person who fundamentally has a lot to offer.

18 And so the bottom line in terms of your term of  
19 incarceration, I think five years enough. I think that  
20 five years is a long sentence, particularly for somebody  
21 who's 20 years old. That must seem like a long time to  
22 you. And as horrified as I am of your conduct with a  
23 12-year-old girl, I just can't think that there's a need  
24 to punish you for more than five years for that action and  
25 so I will impose the mandatory minimum.

1 I don't have to consider whether a lesser sentence  
2 would be appropriate. I will say, as I've said before,  
3 judges hate mandatory minimum sentences because I can  
4 always give five years if I need to, but I think this is a  
5 case in which five years of punishment is enough.

6 And I do not at all want to diminish the seriousness  
7 of the offense that you committed with the 12-year-old  
8 victim. And it's also, I note, you had other 16-year-old  
9 girls that you were communicating with. It's not okay to  
10 get pictures of them naked either. I don't know for sure  
11 that you have those, but there were some pictures of some  
12 other people. You're engaged in some sort of sexual  
13 communications with 16-year-olds.

14 You just have to realize that you're now an adult and  
15 there is nothing wrong with being interested in sex, but  
16 you have to have partners who are your equal in age. And  
17 I hope that you embrace some growing maturity and that you  
18 recognize that sex is a healthy, useful thing, but not the  
19 way that you've conducted it.

20 And so five years is enough. I think that a longer  
21 sentence is counterproductive to all of the interests that  
22 we have here. I think that the longer -- a sentence  
23 longer than five years will actually make it more  
24 difficult for Mr. Jewell-Reigel to achieve full  
25 rehabilitation because he's going to spend a substantial

1 part of his important formative years incarcerated, not  
2 learning how to deal with people in society. For me to  
3 extend that I think decreases the chances that he will be  
4 able not only achieve the goals that he has when he gets  
5 out of prison, but to make him into a healthy law-abiding  
6 citizen that can have an appropriate romantic sexual  
7 relationship with an adult person. I just think it gets  
8 harder the longer we keep him incarcerated and so I'm  
9 going to impose the mandatory minimum of five years.

10 I'm stuck with the five years. I think substantial  
11 punishment is warranted. But looking long term, I don't  
12 think I make anybody safer by having Mr. Jewell-Reigel  
13 incarcerated for a longer period than that. I want him to  
14 come back and pick up and live the life that he's  
15 capable of.

16 I am going to impose a relatively long period of  
17 supervised release of eight years. I have to do at least  
18 five years. But I'm going to, as a hedge against my being  
19 wrong in my judgment about Mr. Jewell-Reigel's character,  
20 I'm going to impose a term of supervised release of eight  
21 years.

22 And I think that eight years is an appropriate public  
23 protective measure that we can take to make sure that  
24 Mr. Jewell-Reigel is not engaging in the conduct that got  
25 him here. I think we can do that without having him

1 incarcerated any further than the five years, so I will  
2 impose the eight years.

3 The terms are proposed and justified in the  
4 presentence report and those are the ones that I'm  
5 inclined to impose. I didn't get any objections to them,  
6 but let me hear from Mr. Bugni if he has any concerns or  
7 objections with those conditions.

8 MR. BUGNI: We have no objection. We would waive  
9 reading as well.

10 THE COURT: All right. And are they adequately  
11 justified in the presentence report?

12 MR. BUGNI: Yes, Your Honor.

13 THE COURT: And, Ms. Altman, I think it's  
14 important for the government to weigh in, too. Do you  
15 have any objections or additional conditions that you  
16 would propose?

17 MS. ALTMAN: No, Your Honor.

18 THE COURT: Okay. All right. So I won't read  
19 them into the record here, Mr. Jewell-Reigel. It can  
20 become tedious. They're in writing. They govern your  
21 conduct. Read them over carefully. You'll have to sign  
22 and acknowledge them. And I think they're appropriate  
23 here. I've looked at them.

24 I will also say that they can be amended when you  
25 begin your supervision or during your supervision if we

1 need to adjust them to consider the needs that you have at  
2 the time or if more conditions or restrictions are  
3 appropriate or if you want relief of some of these or  
4 adjustments during your supervision, so they can be  
5 changed.

6       So I will also provide, because I think the five-year  
7 sentence is a long one, I will provide that the federal  
8 sentence that I impose today will begin to run today.  
9 You're in primary state custody. Your sentence will begin  
10 today and it will run concurrent to any sentence that you  
11 receive on the -- I think the revocation proceedings are  
12 the only thing you've got pending now. Is that right?

13       MR. BUGNI: No, because they -- it would all be  
14 out of the same case number if you just put that down.

15       THE COURT: Okay. So are there other pending  
16 charges?

17       MR. BUGNI: Well, because you have a deferred  
18 prosecution agreement, then there's a violation of the  
19 deferred prosecution agreement, which gives the prosecutor  
20 the decision what they want to do.

21       THE COURT: Okay. So I will provide that my  
22 federal sentence here will run concurrent to any state  
23 sentence that he would receive.

24       Okay. Let's make sure that I've covered the  
25 formalities. I think I've covered how my sentence runs

1 with the state sentence. I've covered supervised release.

2 The offense is not drug related. The defendant  
3 doesn't have any history of drug use. Therefore, I will  
4 waive the requirement of drug testing that would otherwise  
5 be required under Title 18, United States Code, Section  
6 3583(d).

7 It is adjudged that the defendant is to pay the  
8 mandatory \$100 criminal assessment penalty to the Clerk of  
9 Court for the Western District of Wisconsin immediately  
10 following the sentencing.

11 Restitution would be required if there were a request  
12 for it. But there is no request, so there is -- there  
13 will be no restitution order.

14 I do find that the defendant does not have the means  
15 to pay a fine under guideline section 5E1.2(c) without  
16 impairing his ability to support himself upon release, so  
17 I impose no fine.

18 I do find that the defendant is indigent and is  
19 therefore unable to pay the \$5,000 assessment under the  
20 Justice For Victims of Trafficking Act of 2015, so I will  
21 not impose that special assessment.

22 And I will grant the final order of forfeiture under  
23 Title 18, United States Code, Section 2253 for the  
24 property that was seized and subject to forfeiture.

25 The probation office is to notify local law

1 enforcement agencies and the state attorney general of the  
2 defendant's release to the community.

3 And I believe that we've got Counts 2 and 3 are to be  
4 dismissed. Is that correct, Ms. Altman?

5 MS. ALTMAN: Yes, Your Honor.

6 THE COURT: Okay. Counts 2 and 3 are dismissed  
7 then. And then, Mr. Jewell-Reigel, you have  
8 voluntarily -- knowingly and voluntarily waived your right  
9 to appeal your conviction and any sentence of imprisonment  
10 that's of 240 months or less. The sentence that I've  
11 imposed is below that level, so I believe that the waiver  
12 of your appeal rights would be effective.

13 Nevertheless, there is always some possibility that  
14 you have some residual right to make an appeal. If you  
15 were to do that, if you had any rights to make an appeal  
16 and you wanted to appeal, you have to do it subject to  
17 deadlines, so I'm going to give you those deadlines. And  
18 that is, if you want to file an appeal, you must file a  
19 notice of appeal within 14 days of entry of judgment or  
20 within 14 days of any notice of appeal that would be filed  
21 by the government.

22 If you can't afford the filing fee for an appeal, you  
23 can apply for leave to appeal *in forma pauperis*, which  
24 means without paying the filing fee. And if you can't  
25 afford an attorney to represent you in the appeal, you can



1 apply for court-appointed counsel at government expense to  
2 represent you.

3 I think I have covered everything, but let's check in  
4 and see if there's anything else I need to address here.

5 Ms. Altman, anything?

6 MS. ALTMAN: Nothing for me, Your Honor. Thank  
7 you.

8 MR. BUGNI: Nothing for the defense, Your Honor.

9 THE COURT: Very good. Mr. Williams?

10 OFFICER WILLIAMS: No, Your Honor. Thank you.

11 THE COURT: Very good. Thank you all.

12 (Adjourned at 3:09 p.m.)

13 \*\*\*

14

15

16

17

18

19

20

21

22

23

24

25

1 I, CHERYL A. SEEMAN, Certified Realtime and Merit  
2 Reporter, in and for the State of Wisconsin, certify that  
3 the foregoing is a true and accurate record of the  
4 proceedings held on the 7th day of March, 2019, before  
5 the Honorable James D. Peterson, Chief Judge of the  
6 Western District of Wisconsin, in my presence and reduced  
7 to writing in accordance with my stenographic notes made  
8 at said time and place.

9 Dated this 18th day of March, 2019.

10  
11  
12  
13  
14  
15 \_\_\_\_\_ /s/

16 Cheryl A. Seeman, RMR, CRR  
17 Federal Court Reporter  
18  
19  
20  
21

22 The foregoing certification of this transcript does not  
23 apply to any reproduction of the same by any means unless  
24 under the direct control and/or direction of the  
25 certifying reporter.